

REMARKS

The present application was filed on August 29, 2000, with claims 1-19. No amendments are presented with the present response.

In the outstanding Office Action, the Examiner rejected claims 1-11 and 16-19 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,903,724 to Takamoto *et al.* (hereinafter "Takamoto") in view of United States Patent No 5,875,175 to Sherer *et al.* (hereinafter "Sherer"). The Examiner rejected claims 12-15 under 35 U.S.C. §103(a) as being unpatentable over Takamoto in view of Sherer as applied to claim 1, and further in view of United States Patent No. 6,564,382 to Duquesnois *et al.* (hereinafter "Duquesnois").

As discussed in the previous Office Action response, dated June 3, 2004, Applicants' invention concerns a business method for transmitting information over a network. In contrast to the present use of networks, such as in the Internet, where users submit information for immediate transmission, Applicants' invention concerns a method wherein a user submits information for transmission at a desired time. The Applicants' invention

receives a request for transmitting digital information after a start time and before an end time, determines the time required to transmit the digital information based on the number of packets in the information and the network speed, schedules a transmit time for the digital information, and accepts the digital information for transmission only if the time required to transmit is less than or equal to the difference between the transmit time and the end time.

Application, Page 4, lines 7 – 12.

Applicants' invention thus provides users with additional options for using networks, *e.g.*, the Internet, to transmit information. Instead of submitting each information job for immediate transmission as in the prior art, users may submit information transmission jobs for transmission at a desired time, and in variants of the invention, at a first price (*see* claim 2), and in further variants, at a second price (*see* claim 4).

This description of Applicants' invention is provided to assist the Examiner in understanding the differences between Applicants' invention and the references cited by the Examiner. It in no way intends to limit the scope of Applicants' invention.

With regard to the rejections to independent claim 1, the Examiner rejected this claim using a combination of Takamoto and Sherer. Applicants respectfully submit that neither Takamoto nor Sherer disclose or imply at least the subject matter in independent claim 1 of "accepting the digital information for transmission only if the time required to transmit is less than or equal to the difference between the transmit time and the end time." Because neither Takamoto nor Sherer discloses or implies this subject matter (called "the recited subject matter" herein), the combination of Takamoto and Sherer does not disclose or imply the recited subject matter.

In the first paragraph from the top of page 3, §5 of the outstanding Office Action, the Examiner asserts that Takamoto teaches certain elements of independent claim 1, including "accepting the digital information for transmission." The Examiner cites a number of portions of Takamoto for this assertion. In the second paragraph from the top of page 3, §5 of the outstanding Office Action, the Examiner states that "Takamoto et al do not teach the steps of: receiving, determining, scheduling, and accepting with specific conditions." Applicants believe that the term "specific conditions" means at least that the text of "only if the time required to transmit is less than or equal to the difference between the transmit time and the end time" in the recited subject matter is a "condition" not described by Takamoto's asserted step of "accepting." Therefore, Applicants believe that the Examiner admits that Takamoto does not disclose at least the text of "only if the time required to transmit is less than or equal to the difference between the transmit time and the end time" in the recited subject matter.

Nonetheless, Applicants have examined the cited and other portions of Takamoto and cannot find any teaching or implication in Takamoto of the recited subject matter.

Applicants will also show that Sherer does not disclose at least the recited subject matter. For instance, in the third paragraph from the top of page 3, §5 of the outstanding Office Action, the Examiner asserts that Sherer teaches the recited subject matter at col. 9, lines 32-40 and col. 9, line 61 to col. 10, line 26. Col. 9, lines 32-40 of Sherer states the following:

In one embodiment, adaptor 160 reads schedule time 144a from the data structure 142a and compares that to a real-time counter 162. If real-time counter 162 has a lower value than the schedule time, the adaptor waits and does not transmit the packet on the network. If the real-time counter has a higher value than the schedule time, the adaptor down-loads the packet for transmission. In one embodiment, a packet is stored in one or more packet data buffers 146a-c in system memory 140.

Nowhere in this cited text of Sherer is it disclosed or implied that digital information is accepted for transmission only if the time required to transmit is less than or equal to the difference between the transmit time and the end time.

Col. 9, line 61 to col. 10, line 26 of Sherer describes a format for "ScheduleTime," which is part of a packet descriptor data structure of FIG. 5 of Sherer. The ScheduleTime "contains information fields controlling when [a] packet is to be downloaded." See col. 9, lines 52-53 of Sherer. FIG. 6 defines the format of ScheduleTime. See col. 9, lines 61-63 of Sherer. While col. 9, line 61 to col. 10, line 26 of Sherer does disclose a number of bits that are used when performing certain functions, Applicants respectfully submit that there is no teaching or implication in col. 9, line 61 to col. 10, line 26 of the recited subject matter. Applicants have also reviewed other portions of Sherer and can find no teaching or implication of the recited subject matter.

Applicants have therefore shown that neither Takamoto nor Sherer disclose or imply at least the recited subject matter, and therefore the combination of Takamoto and Sherer cannot teach or imply the recited subject matter. The §103(a) rejection to independent claim 1 should be withdrawn.

Furthermore, Applicants respectfully submit that there is no motivation to combine Takamoto and Sherer. As described in the previous Office Action Response, dated June 3, 2004, Takamoto is concerned with improving the speed at which a packet transmission process is performed. Takamoto improves this speed by dividing one ACK unit packet into multiple "sub-ACK" unit packets, where a retransmission request may be performed by per sub-ACK unit packet instead of per ACK unit packet. See, for instance, col. 4, lines 21-43 and Abstract of Takamoto. Sherer, on the other hand, is directed to scheduling "packets so that packets are transmitted to a host or group of hosts so as not to overload any particular part of the network." See Abstract of Sherer. Sherer is unconcerned with improving a speed at which a packet transmission process is performed.

In fact, because the invention in Sherer schedules packets so as not to overload any particular part of a network, the invention of Takamoto, which breaks larger ACK units into smaller sub-ACK units, does not seem to be helpful to the invention in Sherer. If the two were combined, then the combination would not only have to schedule packets (e.g., ACK unit packets), but would have to schedule sub-packets (e.g., sub-ACK unit packets). This would increase costs and overhead with limited or no benefit.

Moreover, Sherer teaches away from a combination of Takamoto and Sherer when Sherer states that "[w]hile the invention is designed for use in networks with variable-width or with fixed-width packets, the invention has particular application when large amounts of data are being transmitted to a destination, and in this case, packets will often be of a maximum (and therefore fixed) size." Col. 5, lines 34-38 of Sherer. Therefore, Sherer implies that the invention of Takamoto, which divides one large ACK unit packet into multiple smaller sub-ACK unit packets, would be of little or no use to combine with the invention of Sherer.

Consequently, Applicants respectfully submit that it is improper to combine Takamoto and Sherer and further request the 103(a) rejection to independent claim 1 be withdrawn.

Thus, Applicants respectfully submit that independent claim 1 is patentable over the cited art for at least the reasons given above. Because independent claim 1 is patentable over the cited art, dependent claims 2-19 are also patentable.

Moreover, the dependent claims add further subject matter to the independent claims and are therefore patentable over the cited art, regardless of the patentability of independent claim 1.

For instance, with respect to dependent claims 2, 4, and 5, Applicants respectfully request that the Examiner identify exactly where in the portion cited by the Examiner any discussion of “price” occurs. Since claims 2, 4, and 5 recites operations involving prices and neither Takamoto nor Sherer recites such disclosure or implies such disclosure, Applicants respectfully request that the Examiner withdraw the rejection of claims 2, 4, and 5 for at least this additional reason.

Regarding dependent claim 3, the claim recites a step “where the digital information is rejected for transmission if the time required to transmit is more than the difference between the transmit time and the end time.” Neither Takamoto nor Sherer disclose that any digital information is rejected for transmission if the time required to transmit is more than the difference between the transmit time and the end time. Accordingly, Applicants respectfully request that the Examiner withdraw his rejection of claim 3 for at least this additional reason.

With respect to dependent claim 7, a bill is created since a new type of service is being provided, wherein a user can schedule transmissions instead of submitting them for immediate transmission. Since the transmissions happen later in time, an acknowledgement is provided to confirm receipt. Applicants respectfully submit

that it is hindsight to suggest that it would have been obvious to generate a bill when Applicants' invention operates differently from the paradigm of the prior art. Applicants respectfully request that the Examiner withdraw his rejection of claims 7 for at least these additional reasons.

With regard to dependent claims 12 – 15, the Examiner rejected these claims under 35 U.S.C. § 103(a) as being unpatentable over Takamoto in view of Sherer as applied to claim 1, and further in view of Duquesnois. As described in the Office Action response dated June 3, 2004, Duquesnois is concerned with a method for playing a set of multimedia applications in real time. The method of Duquesnois itself sets an internal priority level in order to restore synchronization so that the set of multimedia applications can continue to be played in real time. According to the method, various priority levels are assigned to processes (*e.g.*, an audio decoding and rendering task; a video decoding task; a video rendering task; and a browser display update task) that are cooperating to play back a multimedia segment.

The assignment of various priorities to processes cooperating to reproduce a multimedia segment as in the method of Duquesnois has nothing whatsoever to do with the assignment of a priority level to digital information that is submitted for transmission as in the method of Applicants' invention.

What Applicants mean by "priority" is clear from claim 13: "where the priority is that the digital information is transmitted within a time period" and claim 14: "where the time period is any one or more of the following: overnight, two days, and one week". It is clear from these claims that the "priority" of Applicants' invention as

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claimed has nothing to do with the "priority levels" assigned to various processes cooperating to reproduce multimedia segments in the method of Duquesnois.

Finally, the setting of priority levels in Duquesnois enable the replay of multimedia material in real time, whereas the assigning of priorities to digital information in Applicants' invention do *not* concern real time transmission, but rather transmission at a later time.

For at least these reasons, Applicants therefore respectfully request that the Examiner withdraw the §103(a) rejections to claims 12 – 15.

The Applicants submit that in light of the foregoing remarks the application is now in condition for allowance. Applicants therefore respectfully request that the outstanding rejections be withdrawn and that the case be passed to issuance.

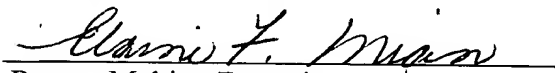
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12/02/04
Date

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